

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JONA RECHNITZ,

Defendant.

16-CR-389 (AKH)

**MEMORANDUM OF LAW**

**BACKGROUND**

Defendant Jona Rechnitz retained Cooley LLP as his counsel in 2016. Cooley represented Mr. Rechnitz in this matter through his sentencing, in December 2019. This Court imposed a sentence of incarceration on Mr. Rechnitz, as well as an order of restitution. On March 17, 2020, Cooley timely filed a notice of appeal of Mr. Rechnitz's sentence to the Second Circuit.

Cooley moved to be relieved as counsel for Mr. Rechnitz on March 18, 2020. *See* Flath Dec. Ex. A. Because of the pendency of the appeal, Cooley filed the motion with the Second Circuit Court of Appeals pursuant to Rule 4.1 of the Second Circuit Local Rules and Internal Operating Procedures. Cooley submitted a declaration of Alan Levine, Esq., in support of the motion, in which Mr. Levine explained why Cooley should be relieved as counsel. *See* Flath Dec. Ex. A. Mr. Levine's declaration was filed under seal, for reasons discussed in the declaration.

On March 26, the Second Circuit issued an order deferring decision on the motion and ordering Mr. Rechnitz to state whether he had retained new counsel, whether he wished to proceed *pro se*, or whether he requested the appointment of counsel pursuant to the Criminal Justice Act. *See* Order dated Mar. 26, 2020, 2d Cir. Case No. 20-1011 (ECF No. 9). On April 2, 2020, Mr. Rechnitz filed a letter. *See* Flath Dec. Ex. B. On April 3, 2020, Cooley filed a reply in support of its motion to be relieved as counsel. *See* Flath Dec. Ex. C. Both Mr. Rechnitz's letter, and

Cooley's reply letter, were filed under seal.

On April 28, 2020, the New York City Correction Officers' Benevolent Association ("COBA") petitioned for a writ of mandamus to the Second Circuit, seeking to modify the restitution order this Court had imposed on Mr. Rechnitz at sentencing. *See generally* Petition for Writ of Mandamus dated Apr. 28, 2020, 2d Cir. No. 20-1400 (ECF 1-2). Cooley did not appear in the mandamus proceeding.

On May 7, 2020, the Second Circuit granted Cooley LLP's motion to be relieved as counsel in Mr. Rechnitz' appeal. *See* Flath Dec. Ex. D.

On May 27, 2020, Alyssa Bell, Esq., an attorney at Cohen Williams LLP, appeared as counsel for Mr. Rechnitz in the appeal, as well as in the mandamus proceeding. Cooley has had no further involvement in either proceeding.

On July 30, 2020, the Second Circuit issued an order staying Mr. Rechnitz's criminal appeal and granting COBA's petition solely to allow this Court to reconsider its restitution decision, and returning jurisdiction to this Court. *See* Order dated July 30, 2020, 2d Cir. No. 20-1400 (ECF 58).

On August 14, 2020, at the request of Mr. Rechnitz, Cooley filed correspondence from Mr. Rechnitz to this Court asking for additional time to respond to COBA's restitution motion to enable him to find new counsel, together with a cover letter from Cooley explaining that Cooley had been relieved as Mr. Rechnitz's counsel by the Second Circuit. *See* Letter dated Aug. 14, 2020 (ECF No. 95). On August 17, this Court endorsed that letter, noting that if Cooley wishes to be relieved as counsel in the district court proceeding, it must file a separate motion, and should do so by August 27, 2020. *See* Memo Endorsement dated Aug. 17, 2020 (ECF No. 96).

### ARGUMENT

Cooley respectfully requests that this Court permit it to be relieved as counsel to Mr. Rechnitz.

The circumstances that support Cooley's motion to be relieved as counsel are detailed in the declaration of Mr. Levine that Cooley submitted to the Second Circuit in support of its prior motion before that Court. *See* Flath Dec. Ex. A. The circumstances concerning the relationship between Mr. Rechnitz and Cooley that are described in Mr. Levine's declaration have not changed since it was filed in March 2020. Therefore, withdrawal remains appropriate now, just as the Second Circuit found when it granted Cooley's motion to be relieved as counsel on May 7, 2020.

Mr. Levine's declaration (Flath Dec. Ex. A), Mr. Rechnitz's letter in opposition (Flath Dec. Ex. B), and Cooley's reply in support (Flath Dec. Ex. C) disclose confidential information about the relationship between attorney and client. Accordingly, Cooley respectfully requests that they be filed under seal in this Court, as they were in the Second Circuit. *See Taub v. Arrayit Corp.*, 2016 WL 4146675, at \*1 (S.D.N.Y. Aug. 4, 2016).

Dated: New York, New York  
August 24, 2020

Respectfully submitted,

COOLEY LLP

By: /s Alan Levine

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